

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL NO. 04-10010-PBS
	)	
MATTHEW DWINELLS	)	
	)	

MOTION IN LIMINE TO EXCLUDE PHOTOGRAPHS

The defendant Matthew Dwinells respectfully moves that the government be precluded from introducing photographs or digital images of his genitalia into evidence during the course of this trial. As background, there is evidence that Dwinells transmitted several photographs of his genitals by use of a "webcam" to an agent posing as "Maria." These digital transmissions took place during the course of some of the instant message sessions between Dwinells and "Maria." While these images might lend flavor to the government's case, the taste is rancid and not helpful to a just resolution of the charges before the court. It is hard to imagine, let alone articulate, any probative value such images would have; they have no tendency to make the existence of intent to coerce or entice a minor into having illegal sexual relations either more or less probable. At the same time, these images are highly prejudicial and do no more than subject the defendant to the jury's ridicule and derision. They should therefore be excluded pursuant to Fed. R. Evid. 401 as irrelevant and Fed. R. Evid. 403 because of their inflammatory

character. The likely result of introducing these images will be to create disgust and antagonism toward the defendant.

For the reasons set out above, the defendant moves that the digital images of his genitalia be excluded from evidence at trial.

MATTHEW DWINELLS

By his attorney,

/s/ Syrie D. Fried

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